

## **EXHIBIT D**

### **Trustee's Objections to Holzer Questions**

**QUESTIONS TO BE PUT TO THE WITNESS**

1. The Trustee alleges that the fact that Madoff did not want his name to be published was an indication of fraud.

**Objection: Mischaracterizes Prior Statement<sup>1</sup>**

2. Were you aware that Madoff did not want his name to be published?

**Objection: Leading<sup>2</sup>, Mischaracterizes Prior Statement, Vague<sup>3</sup>**

3. Please refer to Exhibit A of the documents provided to you with the letter of request. This is a record of testimony provided by Mr. Pistracher to the Vienna Commercial Court on April 15, 2011.
4. Do you know Mr Pistracher?
5. Did you work closely with him?

**Objection: Lacks Foundation<sup>4</sup>, Vague**

6. How long did you work with him?
7. Did you talk about your work with him?

**Objection: Vague**

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<sup>1</sup> See Fed. R. Evid. 611(a); Trustee's Combined Mem. of Law in Opp'n to Alpha Prime's Mots. for the Issuance of Reqs. for Int'l Judicial Assistance ("Trustee's Mem. of Law") at 17-18.

<sup>2</sup> As used herein, the Trustee's objection "Leading" includes objections to questions that suggest the answer, including by referencing out of court statements by third parties in the preceding questions. See Fed. R. Evid. 611(c); Trustee's Mem. of Law at 18-19.

<sup>3</sup> As used herein, the Trustee's objection "Vague" includes the objection to language that is vague, ambiguous, or otherwise results in "confusing the issues." See Fed. R. Evid. 403; Trustee's Mem. of Law at 16-17.

<sup>4</sup> See Fed. R. Evid. 602; Trustee's Mem. of Law at 12-13.

8. In this document, on page 3, paragraph 10 Mr. Pistracher says in reply to a question as to the reason why the manager was not named, “Yes, it was definitely not always common to reveal the strategy of the hedge fund and furthermore we had been told that the manager was introverted and that he didn’t like that.” And in paragraph 8 he states: “I was also told, although not right at the beginning, but then later, that the manager didn’t want people here to shout his name from the rooftops and that we shouldn’t write it in the sales documentation. If someone asked, however, and that did happen sometimes, then we did disclose his name.”

**Objection: Document Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay<sup>5</sup>**

9. Please identify the manager referred to in question 4 above.

**Objection: Calls for Speculation/Lacks Personal Knowledge<sup>6</sup>, Cumulative<sup>7</sup>, Hearsay**

10. Did the explanation given by Mr. Pistracher make sense to you?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion<sup>8</sup>, Cumulative, Hearsay, Lacks Foundation, Mischaracterizes Prior Statement (to the extent it is suggesting that the statement was made to Mr. Holzer)**

11. Why or why not?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Lacks Foundation, Mischaracterizes Prior Statement (to the extent it is suggesting that the statement was made to Mr. Holzer)**

12. Can you confirm that Madoff’s name was disclosed when somebody inquired?

**Objection: Lacks Foundation, Vague**

13. Did anyone ever tell you that they suspected that Madoff was committing fraud as a result of his not wanting to be named?

**Objection: Lacks Foundation, Vague**

14. Please refer to Exhibit S of the documents provided to you with the letter of request.

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<sup>5</sup> The Trustee’s objection on this basis is more fully detailed in the Trustee’s Mem. of Law at 10-12.

<sup>6</sup> See Fed. R. Evid. 602; Trustee’s Mem. of Law at 13-14.

<sup>7</sup> See Fed. R. Evid. 403; Trustee’s Mem. of Law at 15-16.

<sup>8</sup> See Fed. R. Evid. 701; Trustee’s Mem. of Law at 14-15.

15. Is this a record of testimony you provided to the Vienna Commercial Court on January 26, 2010?
16. On page 5 in paragraph 8 you state: "In rare exceptions, deviations were determined here. I know that from colleagues; that did not happen to me personally"

**Objection: No Translation Available**

17. Is that testimony still true?

**Objection: Lacks Foundation**

18. Who are the colleagues you are referring to?

**Objection: Lacks Foundation**

19. Do they include Mr Pistracher?

**Objection: Lacks Foundation**

20. Back to Exhibit A. On page 4 paragraph 5 Mr Pistracher stated: "I always made a report at the end of the month and it always showed up there if a price was not within the range that I described. That was very rarely the case, which I believe was less with stocks but rather with bonds or treasury bills".

**Objection: Document Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

21. Is this testimony accurate?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 20, Lacks Foundation**

22. Did anyone, including Dr Radel, ever tell you that they suspected that Madoff was committing fraud as a result of the trades apparently being out of range?

**Objection: Lacks Foundation, Leading, Mischaracterizes Prior Statement, Vague**

23. Did you believe that Madoff was committing fraud after seeing the out of price ranges trades?

**Objection: Lacks Foundation**

24. Why or why not?

**Objection: Lacks Foundation**

25. If you did not believe that Madoff was committing fraud, what did you believe that the correct explanation was for the out of range trades?

**Objection: Lacks Foundation, Leading**

26. Why did that explanation make sense to you?

**Objection: Lacks Foundation, Leading**

27. In this document, on page 5 paragraph 4 Mr. Pistracher stated: "I did take a look at the whole thing at one point to see if it made sense and, regarding the trades, I looked at both the number and the correlation as well and it matched. As for that, I have to say that I am not a portfolio manager but in my opinion the portfolio on the one hand and its hedge too matched up and from my perspective the philosophy made sense."

**Objection: Document Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

28. Did Madoff's philosophy make sense to you?

**Objection: Hearsay, Lacks Foundation, Vague**

29. In the next paragraph, Mr Pistracher goes on to say: "I would not say that we had an options specialist or a treasury man at BAWWFM."

**Objection: Document Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

30. Is this statement true and correct to the best of your knowledge?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 29, Lacks Foundation**

31. Mr Pistracher then went on to say: "I did not see the respective counterparts to the options. That wasn't disclosed either when it went through the exchange."

**Objection: Document Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

32. Can you confirm his statement?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 31, Lacks Foundation, Vague**

33. Was not naming the counterparty unusual in your experience?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Lacks Foundation, Mischaracterizes the Document**

34. Please refer to Exhibit B of the documents provided to you with the letter of request
35. Is this a record of testimony you provided to the Vienna Commercial Court on October 20, 2010?
36. On page 6 in paragraph 3 you state: "We did not monitor who the counterparty was in over-the-counter transactions."

**Objection: No Translation Available**

37. Was this your understanding?

**Objection: Vague, Lacks Foundation**

38. Were there over-the counter-transactions?

**Objection: Vague, Lacks Foundation**

39. Please refer to Exhibit C: This is an Email chain between Christina Quian, HSBC USA, Lucia Andrich, HSBC Luxemburg and Peter Fischer, director of Senator Fund, a Madoff feeder fund. In this e-mail chain, Christina Quian asks Lucia Andrich for a list of the institutions Madoff uses as counterparties for options trading, stating that she "learned that they are institutions with ratings of at least A". Lucia Andrich forwards the question to Peter Fischer who says that he and Ursula do not have the list and asks HSBC to find out, to which Lucia Andrich replies "no problem".

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

40. Does this conversation refer to exchange traded options or to OTC options?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Lacks Foundation**

41. Would you be able to identify your counterparty in exchange transactions?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Hearsay, Vague**

42. Were you ever told that counterparties used by Madoff for options trading were “institutions with ratings of at least A”?

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

43. If yes, by whom?

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

44. If not, what were your assumptions regarding counterparties?

**Objection: Lacks Foundation, Vague**

45. Was it your understanding that Madoff traded securities both on the Exchange and OTC?

**Objection: Leading**

46. What is the Chicago Board Options Exchange (“CBOE”)?

47. Generally, what does the CBOE monitor?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

48. Do they monitor over the counter trades of options?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

49. Can you confirm that you were delegated to BAWFM from 2000-2007?

50. As part of your job in 2000-2007, were you tasked with following the Chicago Board Options Exchange?

51. When you looked at the options trades BLMIS purportedly made on behalf of Madoff-related funds, did you check the volume of the CBOE and compare it to the number of options trades Madoff did on any day?

**Objection: Lacks Foundation, Vague**

52. If not, why not?

**Objection: Lacks Foundation**

53. Did Dr Radel ever express to you that she suspected Madoff was not actually trading options at any time during your tenure with BAWFM?

**Objection: Lacks Foundation**

54. In his complaint, the Trustee alleges that because the volume of the options purportedly traded by Madoff exceeded the volume of options traded on the Chicago Options Board of Exchange, Primeo, Alpha Prime and its service providers like BAWFM actually knew that Madoff was not really trading options. Do you agree with this?

**Objection: Calls for Lay Opinion, Calls for Speculation/Lacks Personal Knowledge, Mischaracterizes Prior Document**

55. Why or why not?

**Objection: Calls for Lay Opinion, Calls for Speculation/Lacks Personal Knowledge, Mischaracterizes Prior Document**

56. Did you believe that BLMIS trading slips, customer statements, etc showed impossible options trades?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

57. Did Dr Radel tell you that it was important to know the daily volume on the Chicago Board of Options Exchange?

58. Did you know either of Dr. Stefan Zapotocky ("Dr. Zapotocky") Mrs Sonja Kohn ("Mrs. Kohn") or Mr. Peter Fischer ("Mr. Fischer") at the time you were delegated to BAWFM?

59. During your tenure, did any Alpha Prime director or Primeo director other than Dr. Radel ever express concern to you about the comparison between the purported options trading that Madoff allegedly did on behalf of Alpha Prime or Primeo and the daily trade volumes on the Chicago Board of Options Exchange?

**Objection: Lacks Foundation**

60. Did anything ever occur during your tenure that would lead you to believe that Dr. Radel, Dr. Zapotocky, Mrs Kohn or Mr. Fischer believed that Mr. Madoff was only trading options that were listed on the Chicago Board Options Exchange?



61. Did anything ever occur during your tenure that would lead you to believe that Dr. Radel, Dr. Zapotocky, Mrs Kohn or Mr. Fischer believed that Mr. Madoff was also trading options that were over the counter options?

**Objection: Leading**

62. Did anything ever occur during your tenure that would lead you to believe that Dr. Radel, Dr. Zapotocky, Mrs Kohn or Mr. Fischer actually knew that Mr. Madoff was not really trading options at all?

**Objection: Leading**

63. In your opinion, did Dr. Radel believe that Mr. Madoff was really trading options (over the counter or otherwise)?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

64. What makes you say that?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

65. In the course of your work, are you involved with option trading?

**Objection: Vague**

66. In what capacity are you involved with option trading?

**Objection: Vague**

67. Typically, in an options trade, how would you know who the counter-parties are?

68. If the options were traded over-the-counter, would the counter-parties be listed?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Vague**

69. At any time during your work with Dr. Radel, did anyone ask that you investigate the identity of the counter-parties to the Madoff related options trades?

70. If yes, who requested that you do that?

71. Do you know why that person needed that information?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Vague**

72. Did an investor ever request that information?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Vague**

73. Did that investor suggest that because that information was not readily accessible, that Madoff must not truly be trading options?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Leading, Vague**

74. Did anyone ever suggest that because that information was not readily accessible that Madoff must not really be trading options?

**Objection: Leading**

75. At any time from 2001-2007, did you believe that Madoff was not actually trading options?

76. If so, did you inform anyone that you did not believe Madoff was actually trading options?

77. On the bottom of Exhibit A, page 6 Mr Pistracher stated in response to a question concerning checking of stock prices: "No, there was not a precise time stamp on the trading slips, only the trading date appeared there and the settlement date, that is, the date on which the securities were delivered to the fund. I never inquired here or suggested disclosing the precise time in order to be able to check precisely."

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

78. Was this your understanding as well?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Leading Subject to Question 77, Hearsay, Vague**

79. What is Pertrac?

80. Did you use Pertrac?

81. How did information get entered into Pertrac?

**Objection: Lacks Foundation**

82. Who was responsible for entering that information?

83. Was Pertrac used to draw up the sheets like the Trustee's Exhibit 3?

84. Was data entered manually?

85. If yes which data?

86. Please have a look at Exhibit E: This is an email exchange between Peter Fischer, a director of Senator Fund, a Madoff feeder-fund, and an investor, Joel Yanowitz. Does this email exchange acknowledge problems with the automatic download of data in Pertrac over a period of two years (2005-2007)?.

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

87. Were you aware of download problems with Pertrac?

**Objection: Lacks Foundation, Vague**

88. Is it possible that mistakes were made when the raw data was entered or downloaded into Pertrac?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Leading, Mischaracterizes the Document**

89. Please look at Exhibit Y which is Exhibit # 2 from the Trustee's Request for International Judicial Assistance for the deposition of Mr. Pistracher. Can you confirm that there are "FALSE" statements next to the stock "Viacom Inc" on 21-Jan, 24-Jan and 25-Jan?

90. Please now look at Exhibits F and G. Do you recognize what these are?

91. Are these screen shots with Bloomberg data for Viacom?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay, Lacks Foundation**

92. Please now look at Exhibit F and G and compare the Lows and Highs stated there for each of the dates 21-Jan, 24-Jan and 25-Jan with the lows and highs stated in Exhibit Y for these days

93. Can you confirm that the low for 21-Jan in the Bloomberg screenshots is 37,48 and the high is 38,50? Is the purchase price of 37,550 quoted for 21-Jan in Exhibit Y within that range?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay**

94. So applying this range would, this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

95. Can you confirm that the low for 24-Jan in the Bloomberg screenshots is 37,55 and the high is 37,89? Is the purchase price of 37,680 quoted for 24-Jan in Exhibit Y within that range?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay, Lacks Foundation**

96. So applying this range would this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

97. Can you confirm that the low for 25-Jan in the Bloomberg screenshots is 37,56 and the high is 38? Is the purchase price of 37,710 quoted for 25-Jan in Exhibit Y within that range?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay, Lacks Foundation**

98. So applying this range, would this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

99. Do you have any reason to doubt the Bloomberg data?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation**

100. In light of the Bloomberg data, are the “FALSE” statements in Exhibit Y with respect to Viacom on these 3 trading days correct or incorrect?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation**

101. Still in Exhibit Y: Can you confirm that there are “FALSE” statements next to the stock “Dell Inc” on 20-Jan, 21-Jan, 24-Jan and 25-Jan?

102. Please now look at Exhibit H, a document taken from DELL’s home page, listing DELL’s historical closing prices.

103. Would the closing price be part of the daily stock price range?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay**

104. Can you confirm that Exhibit H lists the following closing prices for Dell: 39,7239 for 1/20/2005, 39,6644 for 1/21/2005, 39,6248 for 1/24/2005 and 39,9715 for 1/25/2005.

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay**

105. Do you have any reason to believe that these numbers published by DELL on their website are incorrect?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay**

106. Can you confirm that the purchase price stated in the Trustee's Exhibit Y for Dell on 20-Jan (39,960) is above the closing price according to Exhibit H (39,7239) and below the high price (40,48) quoted in Exhibit Y?

107. So applying this range, would this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

108. Can you confirm that the purchase price stated in Exhibit Y for Dell on 21-Jan (40,070) is above the closing price according to Exhibit H (39,6644) and below the high price (41,82) quoted in Exhibit Y?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation**

109. So applying this range, would this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

110. Can you confirm that the purchase price stated in Exhibit Y for Dell on 24-Jan (40,090) is above the closing price according to Exhibit H (39,6248) and below the high price (42,02) quoted in Exhibit Y?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation**

111. So applying this range, would this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

112. Can you confirm that the purchase price stated in Exhibit Y for Dell on 25-Jan (40,160) is above the closing price according to Exhibit H (39,9715) and the high price (42,02) quoted in Exhibit Y?

113. So applying this range, would this be a TRUE or a FALSE?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Vague**

114. Please have a look at Exhibit I: This is a record of you giving testimony to the Vienna Commercial Court on September 9, 2010. On page 4 in paragraph 5 at the end you state: "As I said, I only checked for reasons of plausibility considerations, that is, I looked to see if at any time on the day in question there was trading at the price stated here but did not compare a precise trading time with the related price."

**Objection: No Translation Available**

115. Is this how everybody else checked at BAWFM?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Leading, Vague**

116. Please have a look at Exhibit J: This is a record of you giving testimony to the Vienna Commercial Court on September 20, 2012. On page 3 starting with line you state: "The task of BA Worldwide was to monitor the plausibility of the prices. This involved only the amount of the figures listed there. I assumed that these securities that appeared there were also there in fact, we had no instructions to precisely verify that."

**Objection: No Translation Available**

117. Did you ever suspect that the securities listed on documents received from BLMIS and/or HSBC did not exist?

**Objection: Lacks Foundation, Leading, Vague**

118. Did anybody else at BAWFM, including Dr. Radel, tell you that they had such doubts?

**Objection: Leading, Vague**

119. Where did you work prior to your employment with Domus Facility Management?

**Objection: Lacks Foundation**

120. What were your responsibilities at Domus?

**Objection: Lacks Foundation**

121. Do you know why Domus assigned you to work for BAWFM?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation**

122. What was the first thing that you were tasked to accomplish?

**Objection: Vague**

123. How closely did you work with Dr. Radel?

**Objection: Lacks Foundation, Vague**

124. Did you see her every work day from 2001-2005?

**Objection: Vague**

125. On page 9 of Exhibit A, paragraph 8 Mr Pistracher stated: "As I said, I only checked whether the buy or sell price was within the range of the highest and/or lowest price of the day. Any other differentiations were not evident here on the slips and were not made by us either."

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

126. Is this statement true and correct to the best of your knowledge?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 125, Lacks Foundation**

127. On page 11 paragraph 5 Mr Pistracher stated: "It is correct that we received the transactions slips from BoB by fax. I assume that the latter had already been checked the trading before that." And then he goes on to say: "Yes, so with that we carried out a follow-up check."

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

128. Do you know what BoB had already checked?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Cumulative, Hearsay, Lacks Foundation, Leading, Mischaracterizes Prior Statement**

129. Do you know how BoB/HSBC checked?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading, Lacks Foundation, Mischaracterizes Prior Statement**

130. Do you know what software they used?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading, Lacks Foundation, Mischaracterizes Prior Statement, Vague**

131. Do you know a software called “Geneva”?

132. What is your understanding of the phrase a “follow on check”?

133. Mr Pistracher goes on to say on the same page: “Along with these fax notices, there was ongoing contact with the Bank of Bermuda respectively HSBC.” “There was email correspondence, and we communicated by telephone and in person too. I was there onsite two times and also met the team that we worked with on this as well.”

134. Who is “we”? Does “we” include you?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Cumulative, Hearsay**

135. If yes, how frequent were these contacts? With whom? Was there ever a time that you can recall that HSBC did not give you a satisfactory explanation as to why any trade was outside the daily range?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

136. Were you also in direct contact with BLMIS on issues of trade checking?

**Objection: Lacks Foundation, Mischaracterizes Prior Statement, Vague**

137. Please refer to Exhibit K: This is an excerpt from a witness statement of Lucia Andrich dated March 4, 2016 issued in the Cayman trial between Primeo Fund (in official liquidation) and Bank of Bermuda (Cayman) limited and HSBC Securities Services (Luxembourg) SA.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

138. In paragraph 7 on page 3 of that statement, Mrs Andrich states that she joined HSSL in November 2004 as a manager in Alternative Accounting and Valuation. In paragraph 8 she states that she manages a team of two fund accountants who calculated the NAV and kept the accounts for Primeo, Alpha Prime Fund and Herald USA. Did you hear of or get to know Ms Andrich during your tenure at BAWFM?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**



139. In paragraph 10 she states that the fund accountants were Michael Quellmelz and Sandro Mettlen. Did you hear of or get to know either of them during your tenure at BAWFM?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

140. Please refer to Page 6, second full paragraph, where she states: “We checked the prices of the Securities supposedly bought by BLMIS against Bloomberg and Reuters. They always matched” and paragraph 21 where she states “I had no suspicions of financial impropriety at BLMIS or concerns about the safety of Primeo’s assets”.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

141. Was that your experience?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Leading Subject to Question 140, Lacks Foundation**

142. Please refer to page 12, paragraphs 52 and 53.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

143. Was this also your perception?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Leading Subject to Question 142, Lacks Foundation**

144. Please refer to pages 27-29, paragraphs 115-127 with the header “Entering trade information and checking prices from Trade Confirmations when received; reconciling with BLMIS Statements at month end”.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

145. Did you know that HSSL performed all these tasks at the time?

146. Please refer to paragraph 118. Can you confirm what is said here about Geneva?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Hearsay**

147. Please refer to paragraph 121. Can you confirm that there never were reports that Madoff was trading outside the market?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Leading, Vague**

148. Please refer to paragraph 122. Can you confirm this explanation? Would that explanation also apply to the differences listed for T-Bills in Exhibit Y.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Leading, Mischaracterizes Prior Statement**

149. Assuming the Bloomberg data of Exhibits F and G is correct for Viacom and the Dell data from the homepage of Dell (Exhibit H) is correct and that the discrepancies noted for the T-Bills in Exhibit Y are due to different rounding methods: Are there any "FALSE" designations left in Exhibit Y?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Hearsay, Lacks Foundation**

150. Please look at the Trustee's Exhibit 3. Are there many deviations overall?

**Objection: Vague**

151. How many deviations are there regarding stocks?

**Objection: Vague**

152. How many deviations are there regarding Treasury Bills?

**Objection: Vague**

153. Are they small or large?

**Objection: Vague**

154. How do you explain the deviations in the Treasury Bills?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Vague**

155. Please refer to paragraphs 123 and 125: Were you aware of the time that HSSL contacted Madoff in case of discrepancies?

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge**

156. Please refer to paragraph 126: What is your understanding of the second sentence? Are you aware whether BAWFM checked the cash position of the Funds it advised at month end?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

157. Please refer to paragraph 127: Do you agree with this statement? Did you check the cash positions at BLMIS at month end?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Hearsay, Vague**

158. Please refer to paragraphs 150-153 on pages 34-35 ("investment restriction check"). Did you know that HSSL performed an investment restriction check?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

159. Please refer to paragraph 153: Did HSSL ever inform you or anybody else at BAWFM of an investment restriction check?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Hearsay**

160. Back to Exhibit A where Mr Pistracher stated on page 11 paragraph 13: "No, these discussions never included the topic of whether there might be anything wrong with the Madoff system. In fact, here in particular the administrative processes were discussed, specifically how certain data were determined or settlements made."

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

161. Did you ever believe that there was something wrong with the Madoff system?

**Objection: Hearsay, Lacks Foundation, Vague**

162. Did anybody at BAWFM, including Dr. Radel, ever tell you that they knew or suspected that there was something wrong with the Madoff systems?

**Objection: Lacks Foundation, Vague**

163. On page 12, paragraph 3 Mr Pistracher states: "As I said, in response to a question, I made known that Madoff was the manager here."

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

164. Did you ever refuse to disclose Madoff's name?

**Objection: Vague**

165. Please have a look at Exhibit B: This is a record of you giving testimony to the Vienna Commercial Court on October 20, 2010. On page 10 in paragraph 1 you state: "There certainly were inquiries made to the custodian bank, for example when the range of the price was between 50 and 100 and it was listed as 40. As far as I know, all inquiries were cleared up satisfactorily."

**Objection: No Translation Available**

166. Can you confirm this statement?

167. Please refer to Exhibit L of the documents provided to you with the letter of request.

**Objection: Exhibit is Incomplete**

168. Is this a record of testimony Mr Pistracher provided to the Vienna Commercial Court on March 21, 2012?

**Objection: Exhibit is Incomplete**

169. Have you seen this document before?

170. In this document, on the bottom of page 3 he was asked whether he took note of a money market fund labelled "US Spartan" and he replied "The name does ring a bell. I can't remember, however, that I noticed it very often or that investments were made in it very often."

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

171. Did you at any stage take note of a money market fund labelled “AS Spartan”?

**Objection: Lacks Foundation, Leading, Mischaracterizes Prior Statement, Vague**

172. Did you notice at any stage that the Fund “Fidelity Spartan” was renamed in 2005 “Fidelity”?

**Objection: Lacks Foundation, Leading**

173. On page 4, paragraph 11 Mr Pistracher is shown a document labeled ./XX. Please refer to Exhibit M

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay (including that Exhibit M is the document to which Mr. Pistracher is being directed during his testimony), No Translation Available**

174. Did you ever see that document during your tenure at BAWFM?

**Objection: Mischaracterizes Prior Statement, Vague**

175. Does this Exhibit describe Madoff’s trading strategy?

**Objection: Hearsay, Leading**

176. Did you analyse the trading strategy?

**Objection: Lacks Foundation, Vague**

177. If yes, did you reach the opinion that BLMIS’s reported trades did not comport with its purported trading strategy?

**Objection: Vague**

178. If no, did anybody else at BAWFM voice the concern that BLMIS’s reported trades did not comport with its purported trading strategy?

**Objection: Hearsay, Leading, Vague**

179. Please look at Exhibit N: This is an email from an investor of Senator Fund SPC to which “standard Madoff investment guidelines from HSBC and their risk report template” are attached.

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

180. Were you aware of such HSBC guidelines during your tenure at BAWFM?

181. Please look at Exhibit O: This is an email from Brian Nash, HSBC US, to Peter Fischer, director of Senator Fund SPC, in which he states in paragraph 3: “As general note, the risk report is necessary to demonstrate to our risk groups that the trade is in compliance with the investment guidelines. However, we have created the investment guidelines and associated risk report with a very clear understanding and intimate knowledge of the strategy being followed. Over the ten+ year history, Madoff has never breached any of these guidelines – so it is really a check the box “yes” exercise”.

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

182. Did you know that HSBC had “a very clear understanding and intimate knowledge of the strategy being followed” by Madoff?

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Leading, Lacks Foundation**

183. Did HSBC tell you that over their 10+ year history with Madoff, Madoff never breached their guidelines?

184. On the bottom of page 4 of Exhibit L it is stated that Mr Pistracher is pointed by Claimant’s counsel to a marked section on page 2 of Exhibit M. Can you identify the section?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay (including that Exhibit M is the document to which Mr. Pistracher is being directed during his testimony), No Translation Available**

185. On the top of page 5 of Exhibit L he states: “I am aware that there was an allegation that the performance of the fund was explained by front running activities.”

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

186. In response to a follow-on question from Claimant’s counsel on the same page: “Did this information concern BAWFM in anyway at all?” he replies: “I and the others as well at BAWFM knew that there was this allegation. We also knew that it had been reviewed by the SEC, the American stock exchange supervisory authority. To my knowledge, that accusation could not be proven. That was then put to rest again.”

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

187. Did you know about an allegation of front running?

**Objection: Leading Subject to Questions 184-186, Lacks Foundation, Vague**

188. Did you know that the allegation was reviewed by the SEC?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Leading, Mischaracterizes Prior Statement**

189. Did you know about the outcome of that review?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks Foundation, Leading Subject to Questions 184-186, Mischaracterizes Prior Statement**

190. Did the fact that the SEC could not prove that accusation comfort you as well?

**Objection: Lacks Foundation, Leading Subject to Questions 184-186, Mischaracterizes Prior Statement**

191. Responding to follow-up questions by Claimant's counsel on the same page Mr. Pistracher answers: "I don't remember anymore whether that report disturbed me at the time. As far as I remember, I was never worried during my time at BAWFM".

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

192. Were you concerned that Madoff was doing something illegal at the time?

**Objection: Lacks Foundation, Leading Subject to Question 191, Mischaracterizes Prior Statement, Vague**

193. Please refer to Exhibit P, pages 2 and 3. This is a decision issued by the Vienna Commercial Court dated May 30, 2016 issued by Judge Dr. Jürgen Exner. Do you agree with the appraisal of Judge Exner in paragraph 4 of page 2 and paragraph 1 of page 3 of the court decision?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Leading, No Translation Available**

194. Please refer to Exhibit Q, pages 2 and 3: This is testimony given by Dr. Radel as a witness in the proceedings 56 Cg 26/12k before the Vienna Commercial Court on December 2, 2014

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

195. Can you confirm the truth or falsity of the following statements made by Dr. Radel on pages 2 and 3 in these proceedings:

“You can only do front running if you buy one individual stock, but Madoff never bought an individual stock but only a basket of stocks. It is totally unbelievable that he had big orders for his 50 stock basket”

“Information about one big order about one individual stock out of the entire basket would not have influenced the portfolio given the low percentage share of that one stock in the entire portfolio. This does not influence performance”

“I never suspected that he was front running”

“If there ever was a discrepancy, we immediately contacted the custodian. Also when there were small things such as the different dates of dividend bookings”

“I never understood the Di Pascali statement as meaning front running. The statement was seen by many BA people and none of them said either „oh, this is front running“ or told me, that someone interpreted it as such.”

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Lacks Foundation, Leading, No Translation Available**

196. Back to Exhibit L: On page 7, paragraph 6 Mr Pistracher is asked: “During your time at BAWFM was the honesty of Mr Madoff ever put into question in your presence?” and he answers: “No”.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

197. Is this statement true and correct to the best of your knowledge?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Lacks Foundation, Leading Subject to Question 196**



198. Did you believe there was fraud involved?

**Objection: Lacks Foundation, Leading Subject to Question 196, Mischaracterizes Prior Statement, Vague**

199. Did you ever tell Dr. Radel that you suspected any fraud?

200. Did you ever tell anybody else that you suspected any fraud?

**Objection: Mischaracterizes Prior Statement, Vague**

201. Did Dr. Radel ever mention to you that she believed that Madoff was committing fraud?

202. Upon follow up question of Claimant's counsel Mr Pistracher stated on the same page of Exhibit L: "The question related to the people at BAWFM. As I have already stated, there were the allegations of front running, these came from outside and were subsequently also checked."

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

203. Is this statement true and correct to the best of your knowledge?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 202, Lacks Foundation**

204. Please refer to Exhibit T. This is another Madoff meeting report issued in June 2001, one year after the report in Exhibit M. Have you seen this report?

205. Please turn to page 1. Do you know any of the names listed there?

206. Please refer to the bottom of page 1: Can you confirm that the individuals listed there were the directors of BAWFM?

207. Where were they located?

208. What were their functions?

209. Hierarchically speaking: who had the higher position, the director or Dr. Radel?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

210. Could the directors give instructions to Dr. Radel?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

211. Did she have to report to the Directors?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

212. Was Dr. Radel a director of BAWFM?

213. If she was not a director, what function did she have at BAWFM?

214. Could she make decisions without the consent of the directors?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

215. Do you know to whom Exhibit M and/or Exhibit T have been distributed?

**Objection: Calls for Speculation/Lacks Personal Knowledge**

216. Please turn to page 2 of the report Exhibit T. Were you aware that the CEO of Bank Austria, NY, attended that meeting?

**Objection: Exhibit Improperly Used to Lead the Witness and to Have  
Witness Improperly Adopt and/or Rely on Hearsay, Calls for  
Speculation/Lacks Personal Knowledge, Lacks Foundation**

217. Please turn to page 3 of the report. It contains the same language as the marked language of exhibit M with one additional sentence which reads: "With regard to presumptions of some journalists about a possibility of "front running", it should be stressed that Madoff Securities as broker doesn't execute block orders".

**Objection: Exhibit Improperly Used to Lead the Witness and to Have  
Witness Improperly Adopt and/or Rely on Hearsay**

218. What is your understanding of this sentence?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Lacks  
Foundation**

219. Are you aware of any reactions to this June 2001 report?

**Objection: Vague**

220. Please refer to Exhibit U. This is a witness testimony of Dr. Kretschmer at the Vienna Commercial Court on April 19, 2017. Please look to page 3 where he states: "I have in any case, until it became public, not known that Madoff was running a Ponzi scheme. Had I known I would of course have acted immediately; I thereby mean that I would have acted before it became public. According to my recollections I also did not have any suspicions regarding Madoff's actions until the end of 2008. Now, after the fact, I can however say that there apparently were already suspicion moments in the 2000-years, but I did not know about that at the time.

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

221. Did you know Dr. Kretschmer?
222. If yes, in which capacity
223. Can you confirm the truth or falsity of these witness statements of Dr. Kretschmer?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 220, Lacks Foundation**

224. Please refer to Exhibit V. This is an excerpt from a witness testimony of Dr. Kretschmer at the Vienna Commercial Court on May 12, 2011. Please look to page 4 where he states beginning at paragraph 7: "When asked whether I knew whether Madoff could engage in front running activities or market abusive activities: Madoff acted in the most strict securities laws environment worldwide. It is hard for me to imagine that this would be possible with an ICC [sic]. In my view he did not engage in front running, but he committed fraud. This from a 2011 view."

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

225. Can you confirm the truth or falsity of these witness statements of Dr. Kretschmer?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 224, Lacks Foundation**

226. Please refer to Exhibit W. This is an excerpt from a witness testimony of Dr. Kretschmer at the Vienna Commercial Court on December 2, 2014. On page 2 he states in the middle of the first paragraph: "I do not recall to ever have had a suspicion that Madoff was front running. This because Madoff is governed by the SEC, this is a quite strict authority."

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

227. Can you confirm the truth or falsity of these witness statements of Dr. Kretschmer?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 226, Lacks Foundation**

228. Please refer to Exhibit R of the documents provided to you with Alpha Prime's letter of request.

229. This is a record of testimony Mr Pistracher provided to the Vienna Commercial Court on January 26, 2012. In this document, on page 3, paragraph 7 and 8 he said: "We checked in Bloomberg whether the prices and the trading volumes in the transaction slips made sense. In isolated instances there were deviations here regarding the price of the stock that sometimes did not correspond exactly with the "high" and "low" data from Bloomberg. During my entire time with BAWFM that happened maybe two or three times in total."

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

230. Is this statement true and correct to the best of your knowledge?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 230, Lacks Foundation**

231. He goes on to state in paragraph 9: “I point out that from around 2001 to February 2005 I was with BAWFM. At the beginning I set up the tool then worked with it there until the end of my activities. The two or three deviations from the Bloomberg prices refer to that time period. The deviations were also quite small. I explained that to myself in that I only saw the price of the trading day. It could also be the case that off-exchange sales were made at a slightly different price.”

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

232. Please explain the last sentence.

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 231, Lacks Foundation**

233. In this document, on the bottom of page 3, carrying over to page 4, he said: “It was not our task to check what the percentage of a specific security was in the Fund and whether that corresponded to the prospectus. The Fund controlling was the task of the custodian bank. As mentioned, we reported how high the shares were but we did not review that in relation to the issue prospectus.”

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

234. Who was the custodian bank?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 233, Lacks Foundation**

235. What was your understanding of the phrase “fund controlling”?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 233, Lacks Foundation**

236. In this document, on the top of page 6, he stated: “I don’t know who the counterparties were on the OTC transactions.”

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

237. What were these OTC-transactions he refers to?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 236, Lacks Foundation**

238. Please have a look at Exhibit B: This is a record of you giving testimony to the Vienna Commercial Court on October 20, 2010. On page 9, in paragraph 8 you state: "I cannot tell from these transaction slips whether this is an OTC transaction or whether it is an exchange transaction. We assumed that when we didn't find an option in Bloomberg, it was an OTC deal."

**Objection: No Translation Available**

239. Who is "we"?

240. Please have a look at Exhibit I: This is a record of you giving testimony to the Vienna Commercial Court on September 9, 2010. On page 5 in paragraph 2 you state: "Based on the slips I can't say whether this was a trade on the exchange in each case or off-exchange or an internal shift of a Madoff inventory, and I don't know if anyone else from BAWW would have recognized that either."

241. What do you mean by "a trade on the exchange in each case or off-exchange"?

242. What do you mean by "a shift in an internal Madoff inventory"?

243. Was your understanding that Madoff was a broker?

244. Was your understanding of the statement that as a broker Madoff could sell his own inventory to clients?

245. How would that inventory be sold? On exchange or off-exchange?

**Objection: Calls for Lay Opinion**

246. Back to Exhibit S: On page 4, paragraph 7, when confronted with the allegation that the transaction slips also included options and asked whether he knew whether that happened on the exchange or off-exchange, Mr Pistracher answers: "I did not know that. That is not apparent from these transaction slips."

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay, No Translation Available**

247. Is this statement true and correct to the best of your knowledge?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 246, Lacks Foundation**

248. During your tenure with BAWFM, did you ever suspect that Madoff was not trading securities?

249. During your tenure with BAWFM did you get the impression that anyone you worked with, including Dr. Radel, believed that Madoff was not trading securities?

250. Do you know a person named Karim Bibars?

251. Did you interact with Mr Bibars during your tenure at BAWFM?

252. What were his responsibilities at BAWFM?

253. Did Mr Bibars analyse Madoff's strategy and performance?

254. Did Mr Bibars calculate the NAV of Primeo?

255. Did Mr Bibars perform due diligence on Madoff?

256. Did Mr Bibars ever raise concerns about Madoff?

257. Who in your view held the assets of Primeo and Alpha?

258. Did you ever hear that BLMIS would not confirm whether it maintained Alpha Prime's assets in a segregated account?

**Objection: Leading**

259. If yes, did this raise any concerns with you?

**Objection: Leading**

260. Did you ever hear that BLMIS's operational structure was vulnerable to fraud because it subverted checks and balances?

**Objection: Leading**

261. Please look at Exhibit D, to the middle of page 1, an email from Denise Outhwaite, Supervisor, Management Services, HSBC Securities Services Luxembourg, regarding a Semi Annual Report of the Madoff-related Senator Fund SPC, in which she states: “I confirm that there were no breaches, NAV errors or material reconciliation issues with regard to the above mentioned fund from Jan to Jul 08 and HSSL is not aware of any reason for the Directors not to sign the resolution”

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

262. Were similar statements made to you during your tenure at BAWFM?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 261, Lacks Foundation**

263. Please refer to Exhibit K, paragraph 64: Can you confirm that Lucia Andrich from HSSL states there that she “regarded BLMIS as a prime broker”?

**Objection: Exhibit is Incomplete and Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

264. Was this also your understanding?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Cumulative, Hearsay, Leading Subject to Question 263, Lacks Foundation**

265. Please refer to Exhibit X: This is an email sent from a company called “Global Custodian Surveys” to the office email address of the Madoff related feeder Fund Senator. The first two sentences of that email state: “This is an invitation for you to participate in the 2008 OTC Derivative Prime Brokerage Survey, which has been introduced this year. This survey has been sent to you by request of your OTC Derivative Prime Broker(s).”

**Objection: Exhibit Improperly Used to Lead the Witness and to Have Witness Improperly Adopt and/or Rely on Hearsay**

266. Who would have requested the Survey to be sent?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Leading Subject to Question 265, Lacks Foundation**

267. Would it be Madoff?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Leading Subject to Question 265, Lacks Foundation**



268. Would it be somebody else?

**Objection: Calls for Speculation/Lacks Personal Knowledge, Calls for Lay Opinion, Hearsay, Leading Subject to Question 265, Lacks Foundation**

269. What does the term OTC Derivative refer to?

270. Please refer to Exhibit I bottom of page 3 and top of page 4 paragraphs 1 to 3. In these proceedings you were shown trading slips. Please now refer to Exhibit Z: Are these the types of Trading Slips for stocks, Treasury Bills and Options you received and reviewed?